**THE HONOURABLE SRI JUSTICE C.V. RAMULU**

**WRIT PETITION NO.2477 OF 2005**

**DATED: 26-6-2007**

Between:

The Depot Manager, APSRTC, Nandikotkur, Kurnool District.

.. Petitioner

and

The Labour Court, Ananthapur represented by its Presiding Officer and another.

.. Respondents

**THE HONOURABLE SRI JUSTICE C.V. RAMULU**

**WRIT PETITION NO.2477 OF 2005**

**ORDER:**

This writ petition is filed being aggrieved by an award, dated 20.8.2004, made in I.D.No.164 of 2002 on the file of the Labour Court, Ananthapur, whereunder the application filed by the 2nd respondent-workman, under Section 2-A (2) of the Industrial Disputes Act (for short 'the Act'), was answered in his favour directing the petitioner-management to reinstate him into service with continuity of service and further directing to pay half backwages from 20.07.2002 till the date of publication of the award and full backwages from the date of publication of the award till the reinstatement of the workman into service.

The petitioner is the management and the 2nd respondent is the workman. It appears, the 2nd respondent was removed from service for absenteeism of 21 days from 05.6.1998 to 26.6.1998, after conducting a detailed enquiry into the matter. The appeal and review petition filed by the 2nd respondent-workman were dismissed. Ultimately, the 2nd respondent raised a dispute under Section 2-A (2) of the Act before the Labour Court, Anantapur claiming that the enquiry was not properly conducted and no notice of any kind was issued to him and, even otherwise, the punishment imposed is disproportionate to that of the misconduct alleged.

The petitioner-management filed a detailed counter affidavit denying the allegations made by the 2nd respondent-workman.

However, after going through the entire material placed before it, the Labour Court held that though medical certificates were submitted by the workman, the same were not sent to any competent medical officer for verification. The Labour Court further held that when sufficient cause for the absence was shown by the workman, the enquiry officer cannot reject the same without showing any valid reasons, and come to the conclusion that the punishment of removal from service is grossly disproportionate to the proved misconduct. Accordingly, an award was passed directing the petitioner-management to reinstate the 2nd respondent-workman into service with continuity of service. The Labour Court further made it clear that the workman is entitled to half backwages from 20.07.2002 till the date of publication of the award and full backwages from the date of publication of award till the reinstatement into service. Aggrieved by the same, the management preferred this writ petition.

Learned counsel for the petitioner-management strenuously contended that the Labour Court erred in holding that the medical certificates submitted by the petitioner were not sent for verification and, in fact, there was no necessity at all to send the same for verification. Further, awarding of backwages is unwarranted in the facts and circumstances of the case.

On the other hand, the learned counsel for the 2nd respondent-workman supported the award passed by the Labour Court and submitted that the Labour Court has not committed any error calling for interference of this Court.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side. Perused the impugned award and other material made available on record.

It is an admitted fact that a medical certificate was submitted to the concerned authority and that was not taken into consideration by the enquiry officer. The authorities ought to have verified as to the genuineness of that certificate. In this case, such a course was not adopted and simply the enquiry officer ignored the medical certificate and proceeded with the matter on the ground that the workman had not shown sufficient cause for being absented for 21 days. Therefore, I am of the opinion that the Labour Court has rightly held that the enquiry officer cannot reject the medical certificate submitted by the workman, without sending the same to the competent medical officer for verification. The Labour Court has not committed any error calling for interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and is liable to be dismissed.

The writ petition is, accordingly, dismissed. No costs.

**C.V. RAMULU, J**

26th June, 2007.

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